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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT

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COMMONWEALTH OF MASSACHUSETTS *
*
VS. * Indictment No.
* 2282CR00117
*
KAREN READ *
*
* * * * *

Day 40 - Trial with Jury
Before the Honorable Beverly Cannone

APPEARANCES:

For The Commonwealth:
BY: Adam Lally
Laura McLaughlin
Assistants District Attorney

For Karen Read:
BY: Alan Jackson
David Yannetti
Elizabeth Little
Attorneys at Law

Norfolk Superior Courthouse
Dedham, Massachusetts
Friday, June 28, 2024

Paula M. Mills
Retired Certified Court Reporter
and Court Transcriptionist

I N D E X

WITNESS:	DIRECT	CROSS	REDIRECT	RE CROSS
(None)				

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P R O C E E D I N G S

June 27, 2024

(Court in session at 9:06 a.m.)

(Defendant present. Jury present.)

THE CLERK: Hear ye, hear ye, hear ye. All parties that have anything to do before the Honorable First Justice Beverly Cannone, now sitting in the Dedham Superior Court, within and for the County of Norfolk, draw near, give your attendance and you shall be heard. God save the Commonwealth and this court.

Thank you. You may be seated. Court is now in session.

THE CLERK: Good morning, Your Honor. 22-117, Commonwealth versus Karen Read.

THE COURT: Good morning. Counsel, good morning. Good morning, Ms. Read. Good morning, jurors.

I want to thank you for getting here promptly. I do have those three questions for you. Were you all able to follow the instructions and refrain from discussing this case with anyone since we left yesterday?

Everyone said "yes" or nodded affirmatively.

Were you also able to follow the instructions

1 and refrain from doing any independent research or
2 investigation into this case?

3 Everyone said "yes" or nodded affirmatively.

4 Did anyone happen to see, hear or read
5 anything about this case since we left yesterday?

6 Everyone said "no" or shook their heads.

7 With that, Mr. Foreman, I'm going to send you
8 all back out to deliberate.

9 (Whereupon, the jury exited the courtroom to resume
10 deliberations at 9:08 a.m. and a brief recess was
11 taken.)

12 (Court resumes at 12:10 p.m.)

13 (Defendant present. Jury not present.)

14 THE COURT OFFICER: Thank you. Please be
15 seated. Court is in session.

16 THE CLERK: We are back on the record on
17 22-117, Commonwealth versus Karen Read.

18 THE COURT: All right. So, counsel,
19 you're aware of our note from the jury. "Dear
20 Judge Cannone: I am writing to inform you on
21 behalf of the jury that despite our exhaustive
22 review of the evidence and our diligent
23 consideration of all disputed evidence, we have
24 been unable to reach a unanimous verdict," signed
25 by the foreperson.

1 So I want to hear from counsel your view on
2 whether there has been due and thorough
3 deliberations. So let's start with the
4 Commonwealth.

5 MR. LALLY: My answer would be "no," Your
6 Honor. There simply hasn't been sufficient time
7 yet.

8 THE COURT: And what does the defense say?

9 MR. JACKSON: We believe that there has been
10 sufficient time.

11 THE COURT: All right. So I'll hear from both
12 of you in more detail. Mr. Lally, I will hear you.

13 MR. LALLY: Your Honor, the jury received this
14 case earlier this week. They've had slightly
15 shortened days, and I'm not in any way, shape or
16 form suggesting that they haven't conducted their
17 due diligence in regard to their deliberative
18 process. But I would submit that it is far, far,
19 far too early in their deliberative process to even
20 consider giving them any kind of *Tuey-Rodriguez*
21 instruction or anything close to that.

22 Furthermore, the note doesn't really indicate
23 affirmatively that they can't come to a conclusion.
24 It just says that they haven't come to a conclusion
25 through their deliberative process at this time.

1 They are not even asking for one, is what I would
2 say.

3 THE COURT: All right. Thank you.

4 Mr. Yannetti, I'll hear you.

5 MR. YANNETTI: Your Honor, I would disagree
6 with Mr. Lally's characterization of the note. The
7 word "exhaustive" is the word I think that's
8 operative here. They are communicating to the
9 Court that they've exhausted all manner of
10 compromise, all manner of persuasion and they are
11 at an impasse.

12 You know, this is a case where the jury has
13 the legal instructions. They've only really asked
14 one question, which was to try to get a report that
15 they were not allowed to get. And I think the
16 message has been received that the evidence is
17 closed. They won't get anything more.

18 They've been working essentially nonstop over
19 the last, you know, three, four days. You know, we
20 are approaching a weekend. They didn't come back
21 with this at 3:00 o'clock or 4:00 o'clock. They
22 are at 12:00 o'clock, and they have nowhere to
23 turn.

24 So our position is the jury should be read the
25 *Tuey-Rodriguez* model instruction and go from there.

1 THE COURT: Okay. All right. So you all know
2 that it is within my discretion. I decide. So a
3 case that has been -- it is a long case. This is
4 our fourth day of deliberations, but Tuesday was a
5 short afternoon, maybe two and a half hours.
6 Wednesday, they left early because of an
7 appointment. Yesterday was also shortened a little
8 bit. And this note arrived with less than three
9 hours of deliberations today, so that the length of
10 the trial, the length of the deliberations -- I
11 know the case had -- we heard from 74 witnesses.
12 There are 657 exhibits, very complex issues in this
13 case.

14 I am not prepared to find that there have been
15 due and thorough deliberations at this point. So I
16 am going to send them back out. We will bring them
17 in, and we will do that now.

18 (Whereupon, communication from the jury was entered
19 and marked Exhibit "VVV for Identification.)

20 (Whereupon, the jury entered the courtroom at
21 12:14 p.m.)

22 THE COURT: All right. So, jurors, I am in
23 receipt of your note. "I am writing to inform you
24 on behalf of the jury that despite our exhaustive
25 review of the evidence and our diligent

1 consideration of all disputed evidence, we have
2 been unable to reach a unanimous verdict," signed
3 by your foreperson.

4 We all know how hard you've been working.
5 Lunch will be arriving shortly. When it comes, I
6 would ask you to clear your heads, have lunch and
7 begin your deliberations again or continue your
8 deliberations. All right? So I am sending you
9 back up.

10 (Whereupon, the jury exited the courtroom to resume
11 deliberations at 12:16 p.m.)

12 THE COURT OFFICER: Thank you. Be seated.
13 Court is still in session.

14 THE COURT: All right. So the note has been
15 marked for identification and we will see you all
16 either at 3:30 or when you get a phone call.

17 THE COURT REPORTER: For the record, that is
18 "VVV" for Identification.

19 THE CLERK: "VVV." Thank you.
20 (Whereupon, there was a brief recess taken.)
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A F T E R N O O N S E S S I O N

(Court resumes at 3:42 p.m.)

(Defendant present. Jury not present.)

THE COURT: All right. So I sent the note in at 3:30 like I've done each day, asking if they want to go home or continue. They indicated that they want to continue until 4:15. So we will continue until 4:15.

Madam Court Reporter?

THE COURT REPORTER: Yes, Your Honor. That will be "WWW."

(Whereupon, communication from the jury was entered and marked Exhibit "WWW" for Identification.)

THE COURT: All right. So I'll see you at 4:15.

(Whereupon, there was a brief recess taken.)

(Court resumes at 4:17 p.m.)

(Defendant present. Jury present.)

THE COURT: All right. So, jurors, we all know how hard you've been working. It's been a long day. We are going to let you go home. We will see you Monday morning at 9:00 o'clock. To the extent that you can, please just not think about this case this weekend. Clear your heads. We will start fresh on Monday.

1 So please follow those instructions. Do not
2 discuss this case with anyone. Don't do any
3 independent research or investigation into the
4 case. If you happen to see, hear or read anything
5 about the case, please disregard it. We'll see you
6 Monday morning. Thank you.

7 (Whereupon, the jury exits the courtroom.)

8 (Whereupon, two envelopes Re: Media were entered
9 and marked "XXX" for Identification.)

10 THE COURT REPORTER: For the record, that's
11 "XXX" for Identification.)

12 THE COURT OFFICER: Please be seated. Court
13 is still in session.

14 THE COURT: All right. We will see you Monday
15 morning.

16 (Whereupon, the Court adjourned.)
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C E R T I F I C A T E

I, Paula M. Mills, retired certified court reporter, do hereby certify that the foregoing pages, page 40-3 to 40-10, is a true and accurate transcription of the voice recording in the aforementioned matter to the best of my skill and ability.

This, the 13th day of July, 2024.

Paula M. Mills

Retired Certified Court Reporter
and Court Transcriptionist